

**REMARKS**

This Amendment is in response to the Office Action mailed June 17, 2005. Claims 1-63 and 79-90 are pending in the present application. In the Office Action, the Examiner objected to claim 53, rejected claims 27 and 38 under 35 U.S.C. § 112, second paragraph, and claims 1, 5-14, 18-27, 31-41, 45-52, 58-63, 79, 80, and 84-90 under 35 U.S.C. § 102(b) and claims 2, 3, 15, 16, 28, 29, 42, 43, 55, 56, 81, and 82 under 35 U.S.C. § 103(a).

Applicant kindly requests that the Examiner sign and initial a copy of the Form PTO-1449 as filed on July 25, 2002. Applicant further requests that a signed and initialed copy of the PTO-1449 form be returned to Applicant's mailing address to complete Applicant's records. Attached is a copy of the PTO-1449 form as filed on July 25, 2002 as well as a copy of the stamped return receipt postcard (control no. 3NCXGC).

**CLAIM OBJECTIONS**

The Examiner objected to claim 53. Applicant has amended claim 53 as suggested by the Examiner by changing "may be" to "is".

**REJECTION UNDER 35 U.S.C. § 112**

The Examiner rejected claims 27 and 38 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicants regard as the invention. In response Applicant has amended claims 27 and 38 to give antecedent basis to the terms at issue.

**REJECTIONS UNDER 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 1, 5-14, 18-27, 31-41, 45-52, 58-63, 79, 80, and 84-90 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,132,957 issued to Mashimo. Applicant respectfully traverses at least the rejections for the following reasons.

1.

Mashimo does not teach, suggest, or describe optical sensors positioned to detect reflection of beams of light from a single data element on an optical medium

Mashimo, uses dual laser beams along a pair of tracks. This implies that in Mashimo, the laser, even if it is time staggered, is used on **two different data elements, on the two different tracks**. Please see column 4, lines 1-8. Since the first and second laser beams are at "a first radial position and a second radial position" this implies each beam is on a different track. Also, as shown in Figures 2, 4, and 7, the beam is directed from LD 17 to disc 19, it is shown two different beams, slightly separated along the radius of the disc. Thus, it is taught by Mashimo that even if there are "leading and lagging electrical signals", those signals are produced by adjacent locations on the disc separated radially, thus each beam strikes a different area on the disc, and consequently is operating on (i.e., reading or burning) a **different data element**.

On the contrary, the present invention operates only upon a **single data element** with the leading and lagging beam. The leading and lagging beam of the present invention are time staggered, but they both pass over the same portion of the disc (i.e., to burn or read data) and hence, pass over the same pit or "data element". See, for instance, Figure 3 of the present invention, which teaches the leading and lagging beam spots, 72 and 74, time staggered, but in time passing over the same spot on the same track, and hence using the **same data element**.

As such, the current claims are not anticipated by Mashimo, since it teaches a leading and lagging beam separated radially, which is for a different purpose than the present invention. Since the present claims are not the identical invention shown in Mashimo, Applicant respectfully requests that rejection be withdrawn.

#### **REJECTIONS UNDER 35 U.S.C. § 103**

The Examiner rejected claims 2, 3, 15, 16, 28, 29, 42, 43, 55, 56, 81, and 82 U.S.C. § 103(a) as being unpatentable over Mashimo, in view of U.S. Patent No. 5,231,620 issued to Ohuchida. Applicant respectfully traverses the rejections because all of the claims cited by the Examiner are dependant claims. All of the cited claims, therefore, depend from independent claims that have been amended to overcome the rejections under 35 USC 102.

Since the independent claims are no longer anticipated by Mashimo, for at least the arguments given above, they are not obvious over Mashimo in view of Ohuchida since the two references, when taken together, do not have all of the elements of the current claims.

Moreover, since Mashimo teaches a "leading and lagging beam" used over radially separated tracks, it teaches away from the present invention, which uses a "leading and

lagging beam" on the same track on the same data element. Therefore, Applicant believes that the present pending independent claims and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejections under 35 U.S.C. § 102(b) and § 103(a) be withdrawn.

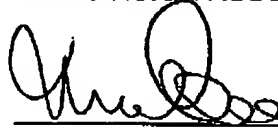
**CONCLUSION**

In view of the amendments and remarks made above, it is respectfully submitted that the pending claims are in condition for allowance, and such action is respectfully solicited. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to contact the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge payment of any required fees associated with this Communication or credit any overpayment to Deposit Account No. 04-1175.

Respectfully submitted,

DISCOVISION ASSOCIATES



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Form PTO-1449 (Modified)	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY. DOCKET NO. 98109001(US)US DSCO	SERIAL NO. 09/883,359
		APPLICANT	
		FILING DATE December 18, 2001	GROUP 2652
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use several sheets if necessary) (37 CFR 1.98(b))			

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLAS S	FILING DATE IF APPROPRIATE
	AA						
	AB						
	AC						

## FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

		DOCUMENT NUMBER	PUBLICATION DATE	COUNTRY OR PATENT OFFICE	CLASS	SUBCLAS S	TRANSLATION YES I NO
	F01						
	F02						
	F03						
	F04						
	F05						

## OTHER DOCUMENTS (Including Author, Title, Date\*\*, Relevant Pages, Place of Publication\*\*\*)

	P01	John Watkinson, "The Art of Data Recording", Pg. 121, Published 1994, Butterworth-Heinemann Ltd. Linacre House, Jordan Hill, Oxford
	P02	
	P03	

COPY

EXAMINER

DATE CONSIDERED

EXAMINER: Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.